駐波蘭台北經濟文化辦事處與駐台北華沙貿易辦事處
避免所得稅雙重課稅及防杜逃稅協定（中譯本）

駐波蘭台北經濟文化辦事處與駐台北華沙貿易辦事處咸欲締結避免所得稅雙重課稅及防杜逃稅協定，以增進雙邊經濟關係，爰經議定下列條款：

第一條　適用之人

本協定適用於具有一方或雙方領域居住者身分之人。

第二條　適用之租稅

一、本協定適用於各領域對所得所課徵之租稅，其課徵方式在所不問。

二、對總所得或各類所得課徵之所有租稅，包括對轉讓動產或不動產之利得所課徵之租稅、對企業給付之工資或薪俸總額所課徵之租稅及對資本增值所課徵之租稅，應視為對所得所課徵之租稅。

三、本協定所適用之現行租稅，尤指：

(一)在波蘭財政部主管之稅法所適用之領域，指：

1.個人所得稅。

2.公司所得稅。

(二)在臺灣財政部主管之稅法所適用之領域，指：

1.營利事業所得稅。

2.個人綜合所得稅。

3.所得基本稅額。

四、本協定亦適用於協定簽署日以後新開徵或替代現行租稅，其與現行租稅相同或實質類似之任何租稅。雙方領域之主管機關對於各自領域稅法之重大修訂，應通知對方。

第三條　一般定義

一、除上下文另有規定外，本協定稱：

(一)「領域」，視情況指第二條第三項第一款或第二款所稱領域，「他方領域」及「雙方領域」亦同。

(二)「人」，包括個人、公司及其他任何人之集合體。

(三)「公司」，指法人或依稅法規定視同法人之任何實體。

(四)「一方領域之企業」及「他方領域之企業」，分別指由一方領域之居住者所經營之企業及他方領域之居住者所經營之企業。

(五)「國際運輸」，指一方領域之企業以船舶或航空器所經營之運輸業務。但該船舶或航空器僅於他方領域境內經營者，不在此限。

(六)「主管機關」：

1.在波蘭財政部主管之稅法所適用之領域，指財政部長或其授權之代表。

2.在臺灣財政部主管之稅法所適用之領域，指財政部長或其授權之代表。

二、本協定於一方領域適用時，未於本協定界定之任何名詞，除上下文另有規定外，依本協定適用租稅當時之法律規定辦理，該領域稅法之規定應優先於該領域其他法律之規定。

第四條　居住者

一、本協定稱「一方領域之居住者」，指依該領域法律規定，因住所、居所、管理處所、設立登記地或其他類似標準而負有納稅義務之人，包括第二條第三項第一款及第二款所稱領域暨其所屬任何行政區或地方機關。

二、僅因有源自一方領域之所得而負該領域納稅義務之人，非為本協定所稱一方領域之居住者。但第二條第三項第二款所稱領域之居住者個人僅就源自該領域之所得負納稅義務者，不適用前段規定。

三、個人依前二項規定，如同為雙方領域之居住者，其身分決定如下：

(一)於一方領域內有永久住所，視其為該領域之居住者；如於雙方領域內均有永久住所，視其為與其個人及經濟利益較為密切之領域之居住者（主要利益中心）。

(二)如主要利益中心所在地領域不能確定，或於雙方領域內均無永久住所

，視其為有經常居所之領域之居住者。

(三)如於雙方領域內均有或均無經常居所，雙方領域之主管機關應相互協議解決之。

四、個人以外之人依第一項及第二項規定，如同為雙方領域之居住者，雙方領域主管機關應考量其實際管理處所，透過相互協議，致力決定基於本協定目的該人應視為居住者所屬之領域。

第五條　常設機構

一、本協定稱「常設機構」，指企業從事全部或部分營業之固定營業場所。

二、「常設機構」包括：

(一)管理處。

(二)分支機構。

(三)辦事處。

(四)工廠。

(五)工作場所。

(六)礦場、油井或氣井、採石場或任何其他天然資源開採場所。

三、建築工地、營建或安裝工程持續超過十二個月者，構成常設機構。

四、前三項之「常設機構」，不包括下列各款：

(一)專為儲存、展示或運送屬於該企業之貨物或商品目的而使用設備。

(二)專為儲存、展示或運送目的而儲備屬於該企業之貨物或商品。

(三)專為供其他企業加工目的而儲備屬於該企業之貨物或商品。

(四)專為該企業採購貨物或商品或蒐集資訊目的所設置之固定營業場所。

(五)專為該企業從事其他具有準備或輔助性質活動目的所設置之固定營業場所。

(六)專為從事前五款任一組合之活動所設置之固定營業場所。但以該固定營業場所之整體活動具有準備或輔助性質者為限。

五、當一人（除第六項所稱具有獨立身分之代理人外）代表他方領域之企業，有權並經常於一方領域內行使代表該企業簽訂契約之權力，其為該企業所從事之任何活動，視該企業於該一方領域有常設機構，不受第一項及第二項規定之限制。但該人經由固定營業場所僅從事前項之活動，依該項規定，該固定營業場所不視為常設機構。

六、企業僅透過經紀人、一般佣金代理商或其他具有獨立身分之代理人，以其通常之營業方式，於一方領域內從事營業者，不得視該企業於該領域有常設機構。

七、一方領域之居住者公司，控制或受控於他方領域之居住者公司或於他方領域內從事營業之公司（不論其是否透過常設機構或其他方式），均不得就此事實認定任一公司為另一公司之常設機構。

第六條　不動產所得

一、一方領域之居住者取得位於他方領域內之不動產所產生之所得（包括農業或林業所得），他方領域得予課稅。

二、稱「不動產」，應具有財產所在地領域法律規定之含義，在任何情況下皆應包括附著於不動產之財產、供農林業使用之牲畜及設備、適用與地產有關一般法律規定之權利、不動產收益權，及有權取得因開採或有權開採礦產、水資源與其他天然資源所給付變動或固定報酬之權利。船舶及航空器不視為不動產。

三、直接使用、出租或以其他任何方式使用不動產所取得之所得，應適用第一項規定。

四、由企業之不動產及供執行業務使用之不動產所產生之所得，亦適用第一項及第三項規定。

第七條　營業利潤

一、一方領域之企業，除經由其於他方領域內之常設機構從事營業外，其利潤僅由該一方領域課稅。該企業如經由其於他方領域內之常設機構從事營業，他方領域得就該企業之利潤課稅，但以歸屬於該常設機構之利潤為限。

二、除第三項規定外，一方領域之企業經由其於他方領域內之常設機構從事營業，各領域歸屬該常設機構之利潤，應與該常設機構為一區隔及分離之企業，於相同或類似條件下從事相同或類似活動，並以完全獨立之方式與該常設機構所屬企業從事交易時，所應獲得之利潤相同。

三、計算常設機構之利潤時，應准予減除該常設機構為營業目的而發生之費用，包括行政及一般管理費用，不論該費用係於常設機構所在地領域或他處發生。

四、一方領域慣例依企業全部利潤按比例分配予各部門利潤之原則，計算應歸屬於常設機構之利潤者，不得依第二項規定排除該一方領域之分配慣例。但採用該分配方法所獲致之結果，應與本條所定之原則相符。

五、常設機構僅為該企業採購貨物或商品，不得對該常設機構歸屬利潤。

六、前五項有關常設機構利潤之歸屬，除有正當且充分理由者外，每年應採用相同方法決定之。

七、利潤中如包含本協定其他條文規定之所得項目，各該條文之規定，應不受本條規定之影響。

第八條　海空運輸

一、一方領域之企業以船舶或航空器經營國際運輸業務之利潤，僅由該一方領域課稅。

二、本條稱以船舶或航空器經營國際運輸業務之利潤，包括下列項目，不受第十二條規定之限制，但以該出租或該使用、維護或出租係與以船舶或航空器經營國際運輸業務有附帶關係者為限：

(一)以計時、計程或光船方式出租船舶、小艇或航空器之利潤。

(二)使用、維護或出租用於運送貨物或商品之貨櫃（包括貨櫃運輸之拖車及相關設備）之利潤。

三、參與聯營、合資企業或國際營運機構之利潤，亦適用前二項規定。但以歸屬於參與聯合營運之比例所取得之利潤為限。

第九條　關係企業

一、兩企業間有下列情事之一，於其商業或財務關係上所訂定之條件，異於雙方為獨立企業所為，其任何應歸屬其中一企業之利潤因該等條件而未歸屬於該企業者，得計入該企業之利潤，並予以課稅：

(一)一方領域之企業直接或間接參與他方領域企業之管理、控制或資本。

(二)相同之人直接或間接參與一方領域之企業及他方領域企業之管理、控制或資本。

二、一方領域將業經他方領域課稅之他方領域企業之利潤，調整為該一方領域企業之利潤並予以課稅，如該他方領域同意該項調整之利潤係按該兩企業間所訂定之條件與互為獨立企業所訂定之相同條件而歸屬於該一方領域企業之利潤，該他方領域應就該調整之利潤所課徵之稅額作適當調整。在決定此項調整時，應考量本協定其他條文之規定，如有必要，雙方領域之主管機關應相互諮商。

第十條　股利

一、一方領域之居住者公司給付他方領域之居住者之股利，他方領域得予課稅。

二、前項給付股利之公司如係一方領域之居住者，該領域亦得依其法律規定，對該股利課稅。但股利之受益所有人如為他方領域之居住者，其課徵之稅額不得超過股利總額之百分之十。

本項規定不影響對該公司用以發放股利之利潤所課徵之租稅。

三、本條稱「股利」，指自股份或其他非屬債權而得參與利潤分配之權利所取得之所得，及自公司其他權利取得而依分配股利之公司居住地領域稅法規定，與股份所得課徵相同租稅之所得。

四、股利受益所有人如為一方領域之居住者，於給付股利公司為居住者之他方領域內，經由其於他方領域內之常設機構從事營業或於該領域內之固定處所執行業務，且與股利有關之股份持有與該常設機構或固定處所有實際關聯時，不適用第一項及第二項規定，而視情況適用第七條或第十四條規定。

五、一方領域之居住者公司自他方領域取得利潤或所得，其所給付之股利或其未分配盈餘，即使全部或部分來自該他方領域之利潤或所得，他方領

域不得對該公司給付之股利課徵任何租稅或對該公司之未分配盈餘課徵未分配盈餘稅。但該股利係給付予他方領域之居住者，或與該股利有關之股份持有與他方領域內之常設機構或固定處所有實際關聯者，不在此限。

第十一條　利息

一、源自一方領域而給付他方領域居住者之利息，他方領域得予課稅。

二、前項利息來源地領域亦得依該領域之法律規定，對該利息課稅。但利息之受益所有人如為他方領域之居住者，其課徵之稅額不得超過利息總額之百分之十。

三、源自一方領域之利息符合下列規定之一者，利息來源地領域應予免稅，不受前二項規定之限制：

(一)給付予他方領域、其所屬行政區、地方機關、中央銀行或由他方領域完全擁有或控制之任何金融機構之利息。

(二)經核准以促進外銷為目的之他方領域輸出入銀行所提供、保證或保險之貸款或信用所給付之利息。

四、本條稱「利息」，指由各種債權所孳生之所得，不論有無抵押擔保及是否有權參與債務人利潤之分配，尤指政府債券之所得及債券或信用債券之所得，包括附屬於該等債券之溢價收入及獎金，但不包括延遲給付之違約金及任何依第十條規定視為股利之項目。

五、利息受益所有人如為一方領域之居住者，經由其於利息來源之他方領域內之常設機構從事營業或他方領域內之固定處所執行業務，且與利息給付有關之債權與該常設機構或固定處所有實際關聯時，不適用第一項至第三項規定，而視情況適用第七條或第十四條規定。

六、由一方領域之居住者所給付之利息，視為源自該領域。但利息給付人如於一方領域內有常設機構或固定處所，而與該利息之給付有關債務之發生與該常設機構或固定處所有關聯，且該利息係由該常設機構或固定處所所負擔者，不論該利息給付人是否為該一方領域之居住者，該利息視為源自該常設機構或固定處所所在地領域。

七、利息給付人與受益所有人間，或上述二者與其他人間有特殊關係，其債權有關之利息數額，超過利息給付人與受益所有人在無上述特殊關係下

所同意之數額，本條規定應僅適用於後者之數額。在此情形下，各領域應考量本協定之其他規定，依其法律對此項超額給付課稅。

第十二條　權利金

一、源自一方領域而給付他方領域居住者之權利金，他方領域得予課稅。

二、前項權利金來源地領域亦得依該領域實施之法律規定，對該權利金課稅。但權利金之受益所有人如為他方領域之居住者，其課徵之稅額不得超過：

(一)使用或有權使用工業、商業或科學設備所給付之對價，為權利金總額之百分之三。

(二)其他情況，為權利金總額之百分之十。

三、本條稱「權利金」，指使用或有權使用任何著作權，包括文學、藝術或科學作品（含電影及供電視或廣播播映之影片或錄音帶）之著作權，任何專利權、商標權、設計或模型、計畫、秘密處方或製造程序，或使用或有權使用任何工業、商業或科學設備，或有關工業、商業或科學經驗之資訊（專門知識），所取得作為對價之任何方式之給付。

四、權利金受益所有人如為一方領域之居住者，經由其於權利金來源之他方領域內之常設機構從事營業或他方領域內之固定處所執行業務，且與權利金給付有關之權利或財產與該常設機構或固定處所有實際關聯時，不適用第一項及第二項規定，而視情況適用第七條或第十四條規定。

五、由一方領域之居住者給付之權利金，視為源自該領域。但權利金給付人如於一方領域內有常設機構或固定處所，而權利金給付義務之發生與該常設機構或固定處所有關聯，且該權利金係由該常設機構或固定處所負擔者，不論該權利金給付人是否為一方領域之居住者，該權利金視為源自該常設機構或固定處所所在地領域。

六、權利金給付人與受益所有人間，或上述二者與其他人間有特殊關係，考量使用、權利或資訊等因素所給付之權利金數額，超過權利金給付人與受益所有人在無上述特殊關係下所同意之數額，本條規定應僅適用於後者之數額。在此情形下，各領域應考量本協定之其他規定，依其法律對此項超額給付課稅。

第十三條　財產交易所得

一、一方領域之居住者轉讓位於他方領域內合於第六條第二項所稱不動產而取得之利得，他方領域得予課稅。

二、一方領域之企業轉讓其於他方領域內常設機構營業資產中之動產而取得之利得，或一方領域之居住者轉讓其於他方領域內執行業務固定處所之動產而取得之利得，包括轉讓該常設機構（單獨或連同整個企業）或固定處所而取得之利得，他方領域得予課稅。

三、一方領域之企業轉讓經營國際運輸業務之船舶或航空器或附屬於該等船舶或航空器營運之動產而取得之利得，僅由該領域課稅。

四、一方領域之居住者轉讓股份，如該股份超過百分之五十之價值直接或間接來自位於他方領域內之不動產，其取得之利得，他方領域得予課稅。

五、轉讓前四項以外之任何財產而取得之利得，僅由該轉讓人為居住者之領域課稅。

第十四條　執行業務

一、一方領域之居住者因執行業務或其他具有獨立性質活動而取得之所得，僅由該一方領域課稅。但該居住者有下列情況之一者，他方領域亦得課稅：

(一)為執行該等活動而於他方領域內設有固定處所。於此情況下，他方領域僅得就歸屬於該固定處所之所得課稅。

(二)於相關曆年度中開始或結束之任何十二個月期間內，於他方領域持續居留或合計居留期間達一百八十三天，他方領域僅得就該居住者於其領域內執行該等活動而取得之所得課稅。

二、所稱「執行業務」，包括具有獨立性質之科學、文學、藝術、教育或教學等活動，與醫師、律師、工程師、建築師、牙醫師及會計師等獨立性質之活動。

第十五條　受僱所得

一、除第十六條、第十八條及第十九條規定外，一方領域之居住者因受僱而

取得之薪津、工資及其他類似報酬，除其勞務係於他方領域提供者外，應僅由該一方領域課稅。前述受僱勞務如於他方領域內提供，他方領域得對該項勞務取得之報酬課稅。

二、一方領域之居住者於他方領域內提供勞務而取得之薪津、工資及其他類似報酬，符合下列各款規定者，應僅由該一方領域課稅，不受前項規定之限制：

(一)該所得人於相關會計年度中開始或結束之任何十二個月期間內，於他方領域持續居留或合計居留期間不超過一百八十三天。

(二)該項報酬由非為他方領域居住者之雇主所給付或代表該雇主給付。

(三)該項報酬非由該雇主於他方領域內之常設機構或固定處所負擔。

三、因受僱於經營國際運輸業務之船舶或航空器上提供勞務而取得之報酬，企業之居住地領域得予課稅，不受前二項規定之限制。

第十六條　董事報酬

一方領域之居住者因擔任他方領域之居住者公司董事會之董事、監察人會之監察人或任何其他類似機構之職務而取得之董事報酬及其他類似給付，他方領域得予課稅。

第十七條　表演人及運動員

一、一方領域之居住者為表演人，如戲劇、電影、廣播或電視演藝人員或音樂家，或為運動員，在他方領域內從事個人活動而取得之所得，他方領域得予課稅，不受第十四條及第十五條規定之限制。

二、表演人或運動員以該身分從事個人活動之所得，如不歸屬於該表演人或運動員本人而歸屬於其他人，該表演人或運動員活動舉行地領域對該項所得得予課稅，不受第七條、第十四條及第十五條規定之限制。

三、表演人或運動員於一方領域從事活動所取得之所得，如其至該一方領域訪問百分之五十以上由一方領域或雙方領域、其所屬行政區或地方機關之公共基金所資助，該所得僅由表演人或運動員為居住者之領域課稅，不適用前二項規定。

第十八條　養老金及社會安全給付

一、除第十九條第二項規定外，因過去僱傭關係，給付予一方領域居住者之養老金或其他類似報酬，應僅由該一方領域課稅。

二、一方領域、其所屬行政區或地方機關，依其社會安全制度所給付之養老金及其他給付，應僅由該一方領域課稅，不受前項規定之限制。

第十九條　政府勞務

一、(一)除第二款規定外，一方領域、其所屬行政區或地方機關，給付予為該領域、行政區或地方機關提供勞務之個人之薪津、工資或其他類似報酬，僅由該一方領域課稅。

(二)但該等勞務如係由他方領域之居住者個人於他方領域提供，且該個人符合下列條件之一者，該薪津、工資及其他類似報酬僅由他方領域課稅：

1.係他方領域之國民。

2.非專為提供上述勞務之目的而成為他方領域之居住者。

二、(一)一方領域、其所屬行政區或地方機關，或經由其所籌設之基金，給付予為該領域、行政區或地方機關提供勞務之個人之養老金及其他類似報酬，僅由該一方領域課稅，不受前項規定之限制。

(二)但如該個人係他方領域之居住者，且為他方領域之國民，該養老金及其他類似報酬僅由他方領域課稅。

三、為一方領域、其所屬行政區或地方機關所經營之事業提供勞務而取得之薪津、工資、養老金及其他類似報酬，應適用第十五條至第十八條規定。

第二十條　學生

學生、學徒或見習生專為教育或訓練目的而於一方領域停留，且於訪問該一方領域期間或於訪問前際為他方領域之居住者，其為生活、教育或訓練目的而取得源自該一方領域以外之給付，該一方領域應予免稅。

第二十一條　其他所得

一、一方領域之居住者取得非屬前述各條規定之所得，不論其來源地為何，僅由該領域課稅。

二、所得人如係一方領域之居住者，經由其於他方領域內之常設機構從事營業或固定處所執行業務，且與該所得給付有關之權利或財產與該常設機構或固定處所有實際關聯時，除第六條第二項定義之不動產所產生之所得外，不適用前項規定，而視情況適用第七條或第十四條規定。

三、一方領域之居住者取得源自他方領域非屬本協定前述各條規定之所得，他方領域亦得予課稅，不受前二項規定之限制。

第二十二條　雙重課稅之消除

一、依第二條第三項第一款所稱領域之法律規定，其避免雙重課稅之規定如下：

(一)第二條第三項第一款所稱領域之居住者取得依據本協定規定得由第二條第三項第二款所稱領域課稅之所得者，其在後者領域繳納之所得稅額，前者領域應准自對該居住者之所得課徵之稅額中扣抵。但扣抵之數額，不得超過扣抵前稅額屬於自他方領域取得之所得部分之稅額。

(二)第二條第三項第一款所稱領域之居住者取得依據本協定任何條文規定該領域應予免稅之所得者，該領域於計算該居住者其餘所得之應納稅額時，得將該免稅所得列入計算。

二、依第二條第三項第二款所稱領域之法律規定，其避免雙重課稅之規定如下：

第二條第三項第二款所稱領域之居住者，取得源自他方領域之所得，依據本協定之規定於他方領域就該所得繳納之稅額（如係股利所得，不包括用以發放該股利之利潤所繳納之稅額），應准予扣抵前者領域對該居住者所課徵之稅額。但扣抵之數額，不得超過依前者領域稅法及相關法令規定對該所得課徵之稅額。

第二十三條　利益限制

一、一方領域之居住者或與該居住者有關之人，如以取得本協定利益為其主要目的或主要目的之一，該居住者不得取得本協定所提供之任何利益，不受本協定其他任何條文規定之限制。

二、本條規定不應解釋為限制一方領域任何關於防杜避稅或逃稅法律規定之適用。

第二十四條　無差別待遇

一、一方領域之國民於他方領域內，不應較他方領域之國民於相同情況下，特別是基於居住之關係，負擔不同或較重之任何租稅或相關之要求。前段規定亦應適用於非一方領域居住者或非為雙方領域居住者之人，不受第一條規定之限制。

二、一方領域之企業於他方領域內有常設機構，他方領域對該常設機構之課稅，不應較經營相同業務之他方領域之企業作更不利課徵。

三、除適用第九條第一項、第十一條第七項或第十二條第六項規定外，一方領域之企業給付他方領域居住者之利息、權利金及其他款項，於計算該企業之應課稅利潤時，應與給付前者領域居住者之條件相同而准予減除。

四、一方領域之企業，其資本之全部或部分由一個以上之他方領域居住者直接或間接持有或控制者，該企業在前者領域所負擔之任何租稅或相關要求，不應與前者領域之類似企業負擔或可能負擔之租稅或相關要求不同或較其為重。

五、本條規定不應解釋為任一方領域基於租稅目的而給予其居住者之免稅額、租稅優惠或減免稅規定，應同樣給予他方領域之居住者。

六、本條規定僅適用於本協定所規定之租稅。

第二十五條　相互協議之程序

一、任何人如認為一方或雙方領域之行為，對其發生或將發生不符合本協定規定之課稅，不論各該領域國內法之救濟規定，得向其本人之居住地領

域主管機關提出申訴；如申訴案屬第二十四條第一項規定之範疇，得向其本人依法律規定為國民所屬領域之主管機關提出申訴，此項申訴應於不符合本協定規定課稅首次通知起三年內為之。

二、主管機關如認為該申訴有理，且其本身無法獲致適當之解決，應致力與他方領域之主管機關相互協議解決，以避免發生不符合本協定規定之課稅。

三、雙方領域之主管機關應相互協議，致力解決有關本協定之解釋或適用上發生之任何困難或疑義。雙方並得共同諮商，以消除本協定未規定之雙重課稅問題。

四、雙方領域之主管機關為達成前三項規定之協議，得直接相互聯繫。

第二十六條　資訊交換

一、雙方領域之主管機關於不違反本協定之範圍內，應相互交換所有可能有助於實施本協定之規定或為雙方領域、其所屬行政區或地方機關所課徵本協定適用租稅有關國內法之行政或執行之資訊。資訊交換不以第一條規定之範圍為限。

二、一方領域依前項規定取得之任何資訊，應按其依該領域國內法規定取得之資訊同以密件處理，且僅能揭露予與前項所述租稅之核定、徵收、執行、起訴、行政救濟之裁定或監督上述程序之相關人員或機關（包括法院及行政部門）。上該人員或機關僅得為前述目的而使用該資訊，但得於公開法庭之訴訟程序或司法判決中揭露之。

三、前二項規定不得解釋為一方領域有下列義務：

(一)執行與一方或他方領域之法律與行政慣例不一致之行政措施。

(二)提供依一方或他方領域之法律規定或正常行政程序無法獲得之資訊。

(三)提供可能洩露任何貿易、營業、工業、商業或專業秘密或交易方法之資訊，或其揭露將有違公共政策（公序）之資訊。

四、一方領域依據本條規定所要求提供之資訊，他方領域雖基於本身課稅目的無需此等資訊，亦應利用其資訊蒐集措施以獲得該等資訊。前述義務應受前項規定之限制，但不得解釋為他方領域得僅因該等資訊無國內利益而引用前項規定不提供是項資訊。

五、第三項之規定無論在任何情況下均不得解釋為准許一方領域，僅因資訊為銀行、其他金融機構、被委任人或具代理或受託身分之人所持有、或涉及一人所有權利益為由，而拒絕提供資訊。

第二十七條　生效

一、駐波蘭台北經濟文化辦事處與駐台北華沙貿易辦事處於完成各自領域執行本協定之內部必要程序後，應以書面相互通知。本協定應於後通知之日起生效。

二、本協定之適用：

(一)就源扣繳稅款，為本協定生效日所屬年度之次一曆年一月一日以後取得之所得。

(二)其他稅款，為任何課稅年度始於本協定生效日所屬年度之次一曆年一月一日以後之所得。

第二十八條　終止

本協定於一方主管機關終止本協定前，應繼續有效。任一方主管機關得於本協定生效日起滿五年後開始之任一曆年年終至少六個月前發出終止通知，終止本協定。在前述情況下，本協定終止適用於：

(一)就源扣繳稅款，為終止通知發出日所屬年度之次一曆年一月一日以後取得之所得。

(二)其他稅款，為任何課稅年度始於終止通知發出日所屬年度之次一曆年一月一日以後之所得。

為此，雙方代表業經合法授權於本協定簽字，以昭信守。

本協定以英文簽署一式兩份。

駐波蘭台北經濟文化辦事處	**駐台北華沙貿易辦事處**
陳銘政	**梅西亞**
館長	**館長**
日期：2016 年 10 月 21 日	**日期：2016 年 10 月 21 日**
地點：台北	**地點：台北**

駐波蘭台北經濟文化辦事處與駐台北華沙貿易辦事處
避免所得稅雙重課稅及防杜逃稅協定議定書

駐波蘭台北經濟文化辦事處與駐台北華沙貿易辦事處於簽署避免所得稅雙重課稅及防杜逃稅協定之同時，簽署人另議定下列條款構成本協定之一部分：

一、附加於第二條：

本協定第二條第三項第一款所稱「個人所得稅」，包括對自然人取得之特定收入所課徵之定額稅；所稱「公司所得稅」，包括噸位稅。

二、附加於第四條：

本協定第二條第三項第二款所稱領域之居住者個人，依所得基本稅額條例規定無需將海外所得計入基本所得額者，屬本協定第四條第二項所稱依所得稅法規定僅就源自該領域之所得負納稅義務者。

三、附加於第二十六條：

本協定第二十六條第一項雖未限制資訊交換之可能方法，但並未使主管機關承諾執行自動或自發性資訊交換。

為此，雙方代表業經合法授權於本議定書簽字，以昭信守。

本協定以英文簽署一式兩份。

駐波蘭台北經濟文化辦事處	**駐台北華沙貿易辦事處**
陳銘政	**梅西亞**
館長	**館長**
日期：2016 年 10 月 21 日	**日期：2016 年 10 月 21 日**
地點：台北	**地點：台北**

AGREEMENT

BETWEEN

THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN WARSAW

AND THE WARSAW TRADE OFFICE IN TAIPEI

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

The Taipei Economic and Cultural Office in Warsaw and the Warsaw Trade Office in Taipei, desiring to promote their mutual economic relations through the conclusion of an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

have agreed as follows:

ARTICLE 1
PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the territories.

ARTICLE 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed in either of territories irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises as well as taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are in particular:

a) in the territory in which the taxation law administered by the Polish Ministry of Finance is applied:
(i) the personal income tax, and
(ii) the corporate income tax;

b) in the territory in which the taxation law administered by the Ministry of Finance, Taiwan is applied:
(i) the profit-seeking enterprise income tax,
(ii) the individual consolidated income tax, and
(iii) the income basic tax.

4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the territories shall notify each other of any

significant changes that have been made in the taxation laws of the respective territories.

ARTICLE 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

a) the term "territory" means the territory referred to in paragraph 3 a) of Article 2 or in paragraph 3 b) of Article 2 of this Agreement, as the case requires, and "other territory" and "territories" shall be construed accordingly;

b) the term “person” includes an individual, a company and any other body of persons;

c) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

d) the terms “enterprise of a territory” and “enterprise of the other territory” mean respectively an enterprise carried on by a resident of a territory and an enterprise carried on by a resident of the other territory;

e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a territory, except when the ship or aircraft is operated solely between places in the other territory;

f) the term “competent authority” means:

(i) in the case of the territory in which the taxation law administered by the Polish Ministry of Finance - the Minister of Finance or his authorized representatives, and
(ii) in the case of the territory in which the taxation law administered by the Ministry of Finance, Taiwan is applied, the Minister of Finance or his authorized representatives.

2. As regards the application of this Agreement at any time by a territory, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that territory for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that territory prevailing over a meaning given to the term under other laws of that territory.

ARTICLE 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a territory" means any person who, under the laws of that territory, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes territories referred to in paragraphs 3 a) and b) of Article 2 and any political subdivision or local authority thereof.

2. A person is not a resident of a territory for the purposes of this Agreement if that person is liable to tax in that territory in respect only of income from sources in that territory. However, this provision shall not apply to individuals who are residents of the territory referred to in paragraph 3 b) of Article 2, as long as resident individuals are liable to tax only in respect of income from sources in that territory.

3. Where by reason of the provisions of paragraphs 1 and 2 an individual is a resident of both territories, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the territory in which he has a permanent home available to him; if he has a permanent home available to him in both territories, he shall be deemed to be a resident only of the territory with which his personal and economic relations are closer (centre of vital interests);

b) if the territory in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either territory, he shall be deemed to be a resident only of the territory in which he has an habitual abode;

c) if he has an habitual abode in both territories or in neither of them, the competent authorities of the territories shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraphs 1 and 2, a person other than an individual is a resident of both territories, the competent authorities of the territories shall endeavour to determine by mutual agreement the territory of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to its place of effective management.

ARTICLE 5
PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site, construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e) of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a territory an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that territory in respect of any

activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a territory merely because it carries on business in that territory through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a territory controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6
INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a territory from immovable property (including income from agriculture or forestry) situated in the other territory may be taxed in that other territory.

2. The term “immovable property” shall have the meaning which it has under the law of the territory in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7
BUSINESS PROFITS

1. The profits of an enterprise of a territory shall be taxable only in that territory unless the enterprise carries on business in the other territory through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other territory but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a territory carries on business in the other territory through a permanent establishment situated therein, there shall in each territory be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the territory in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a territory to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various

parts, nothing in paragraph 2 shall preclude that territory from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8
SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a territory from the operation of ships or aircraft in international traffic shall be taxable only in that territory.

2. For the purposes of this Article, and notwithstanding the provisions of Article 12, profits from the operation of ships or aircraft in international traffic shall include:

a) profits from the rental on a full (time or voyage) basis or a bareboat basis of ships, boats or aircraft, and

b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

ARTICLE 9
ASSOCIATED ENTERPRISES

1. Where:

a) an enterprise of a territory participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a territory and an enterprise of the other territory,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a territory includes in the profits of an enterprise of that territory, and taxes accordingly, profits on which an enterprise of the other territory has been charged to tax in that other territory, and the other territory agrees that the profits so included are profits that would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those

that would have been made between independent enterprises, then that other territory shall make an appropriate adjustment to the amount of the tax charged therein on those profits.
In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of both territories shall if necessary consult each other.

ARTICLE 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a territory to a resident of the other territory may be taxed in that other territory.

2. However, such dividends may also be taxed in the territory of which the company paying the dividends is a resident and according to the laws of that territory, but if the beneficial owner of the dividends is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the territory of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a territory, carries on business in the other territory of which the company paying the dividends is a resident through a permanent establishment situated therein or performs in that other territory independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such

case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a territory derives profits or income from the other territory, that other territory may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other territory or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other territory, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other territory.

ARTICLE 11
INTEREST

1. Interest arising in a territory and paid to a resident of the other territory may be taxed in that other territory.

2. However, such interest may also be taxed in the territory in which it arises and according to the laws of that territory, but if the beneficial owner of the interest is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a territory shall be exempt from tax in that territory if it is paid:

a) to the other territory, a political subdivision or local authority or the Central Bank thereof or any financial institution wholly owned or controlled by the other territory; or

b) in respect of a loan granted, guaranteed or insured or a credit extended, guaranteed or insured by an approved Export-Import Bank of the other territory which aims at promoting export.

4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term “interest” shall not include for the purpose of this Article penalty charges for late payment and any item which is treated as a dividend under the provisions of Article 10.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a territory, carries on business in the other territory in which the interest arises, through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the interest, whether he is a resident of a territory or not, has in a territory a permanent establishment or fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the territory in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each

territory, due regard being had to the other provisions of this Agreement.

ARTICLE 12
ROYALTIES

1. Royalties arising in a territory and paid to a resident of the other territory may be taxed in that other territory.

2. However, such royalties may also be taxed in the territory in which they arise and according to the laws in force of that territory, but if the beneficial owner of the royalties is a resident of the other territory, the tax so charged shall not exceed:

a) 3 per cent of the gross amount of the royalties paid as a consideration for the use of, or the right to use, industrial, commercial, or scientific equipment, and

b) 10 per cent of the gross amount of the royalties in all other cases.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright including copyright of literary, artistic or scientific work (including cinematograph films and films or tapes for television or radio broadcasting), any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use any industrial, commercial, or scientific equipment or for information concerning industrial, commercial or scientific experience (know-how).

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a territory, carries on business in the other territory in which the royalties arise, through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent

establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the royalties, whether he is a resident of a territory or not, has in a territory a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the territory in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each territory, due regard being had to the other provisions of this Agreement.

ARTICLE 13
CAPITAL GAINS

1. Gains derived by a resident of a territory from the alienation of immovable property referred to in paragraph 2 of Article 6 and situated in the other territory may be taxed in that other territory.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a territory has in the other territory, or of movable property pertaining to a fixed base available to a resident of a territory in the other territory for the purposes of performing independent personal services, including such gains from the alienation of such

a permanent establishment (alone or with the whole enterprise), or of such fixed base, may be taxed in that other territory.

3. Gains derived by an enterprise of a territory from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that territory.

4. Gains derived by a resident of a territory from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other territory may be taxed in that other territory.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the territory of which the alienator is a resident.

ARTICLE 14
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a territory in respect of professional services or other independent activities of an independent character shall be taxable only in that territory except in the following circumstances, when such income may also be taxed in the other territory:

a) if he has a fixed base regularly available to him in the other territory for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that territory; or

b) if his stay in the other territory is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the calendar year concerned; in that case, only so much of the income as is derived from his activities performed in the other territory may be taxed in that territory.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15
INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a territory in respect of an employment shall be taxable only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.

2. Notwithstanding the provisions of paragraph 1, salaries, wages and other similar remuneration derived by a resident of a territory in respect of an employment exercised in the other territory shall be taxable only in the first-mentioned territory if:

a) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other territory, and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other territory.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the territory of which the enterprise is a resident.

ARTICLE 16
DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a territory in the capacity as a member of the board of directors or of the supervisory board or of any other similar organ of a company which is a resident of the other territory may be taxed in that other territory.

ARTICLE 17
ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a territory as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other territory, may be taxed in that other territory.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the territory in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a territory by an entertainer or a sportsman if the visit to that territory is at least in 50 per cent supported by public funds of one or both of the territories and any political subdivision or local authority thereof. In such case, the income is taxable only in the territory of which the entertainer or sportsman is a resident.

ARTICLE 18
PENSIONS AND SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a territory in consideration of past employment shall be taxable only in that territory.

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a territory or a political subdivision or a local authority thereof shall be taxable only in that territory.

ARTICLE 19
GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration paid by a territory or a political subdivision or a local authority thereof to an individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory, subject to sub-paragraph b) of this paragraph.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other territory if the services are rendered in that territory and the individual is a resident of that territory who:

(i) is a national of that territory; or
(ii) did not become a resident of that territory solely for the purpose of rendering the services.

2. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a territory or a political subdivision or a local authority thereof to an individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory.

b) However, such pensions and other similar remuneration shall be taxable only in the other territory if the individual is a resident of, and a national of that territory.

3. The provisions of Articles 15, 16, 17 and 18, shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a territory or a political subdivision or a local authority thereof.

ARTICLE 20
STUDENTS

Payments which a student, pupil or an apprentice who is or was immediately before visiting a territory a resident of the other territory and who is present in the first-mentioned territory solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that first-mentioned territory, provided that such payments arise from sources outside that territory.

ARTICLE 21
OTHER INCOME

1. Items of income of a resident of a territory, wherever arising, not dealt with in the foregoing Articles shall be taxable only in that territory.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a territory, carries on business in the other territory through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or

fixed base. In such case the provisions of Article 7 or 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a territory not dealt with in the foregoing Articles of this Agreement and arising in the other territory may also be taxed in that other territory.

ARTICLE 22
ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the law of the territory referred to in paragraph 3 a) of Article 2, double taxation shall be avoided as follows:

a) where a resident of the territory referred to in paragraph 3 a) of Article 2, derives income which, in accordance with the provisions of this Agreement may be taxed in the territory referred to in paragraph 3 b) of Article 2, the first-mentioned territory shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the last-mentioned territory. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such income derived from that other territory;

b) where in accordance with any provision of this Agreement, income derived by a resident of the territory referred to in paragraph 3 a) of Article 2, is exempt from tax in that territory, this territory may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. Subject to the provisions of the law of the territory referred to in paragraph 3 b) of Article 2, double taxation shall be avoided as follows:

where a resident of the territory referred to in paragraph 3 b) of Article 2 derives income from the other territory, the amount of tax

on that income paid in the other territory (but excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) and in accordance with the provisions of this Agreement, shall be credited against the tax levied in the first-mentioned territory imposed on that resident. The amount of credit, however, shall not exceed that amount of the tax in the first-mentioned territory on that income computed in accordance with its taxation laws and regulations.

ARTICLE 23
LIMITATION ON BENEFITS

1. Notwithstanding the provisions of any other Article of this Agreement, a resident of a territory shall not receive any benefit provided for in the Agreement if the main purpose or one of the main purposes of such resident or a person connected with such resident was to obtain the benefits of this Agreement.

2. Nothing in this Article shall be construed as restricting, in any manner, the application of any provisions of the law of a territory which are designed to prevent the avoidance or evasion of taxes.

ARTICLE 24
NON-DISCRIMINATION

1. Nationals of a territory shall not be subjected in the other territory to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other territory in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the territories.

2. The taxation on a permanent establishment which an enterprise of a territory has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a territory to a resident of the other territory shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned territory.

4. Enterprises of a territory, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other territory, shall not be subjected in the first-mentioned territory to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned territory are or may be subjected.

5. Nothing contained in this Article shall be construed as obliging either territory to grant to residents of the other territory any of the allowances, reliefs and reductions for tax purposes which are granted to its own residents.

6. The provisions of this Article shall apply to taxes which are the subject of this Agreement.

ARTICLE 25
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the territories result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those territories, present the case to the competent authority of the

territory of which that person is a resident or, if his case comes under paragraph 1 of Article 24, to that of the territory of which he is a national under the laws in force of that territory. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other territory, with a view to the avoidance of taxation which is not in accordance with this Agreement.

3. The competent authorities of the territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the territories may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 26
EXCHANGE OF INFORMATION

1. The competent authorities of the territories shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement imposed on behalf of the territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a territory shall be treated as secret in the same manner as information obtained under the domestic laws of that territory and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a territory the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other territory;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other territory;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a territory in accordance with this Article, the other territory shall use its information gathering measures to obtain the requested information, even though that other territory may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a territory to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a territory to decline to supply information solely because the information is held by a bank, other financial institution, nominee or

person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27
ENTRY INTO FORCE

1. The Taipei Economic and Cultural Office in Warsaw and the Warsaw Trade Office in Taipei will notify each other in writing when internal procedures necessary to implement this Agreement in their respective territories are completed. The Agreement shall enter into force on the date of the latter of these notifications.

2. This Agreement shall have effect:

a) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which this Agreement entered into force, and

b) in respect of other taxes, on income derived in any tax year beginning on or after 1 January in the calendar year next following the year in which this Agreement entered into force.

ARTICLE 28
TERMINATION

This Agreement shall remain in force until terminated by one of the competent authorities. Either competent authority may terminate this Agreement by giving a written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Agreement. In such event, this Agreement shall cease to have effect:

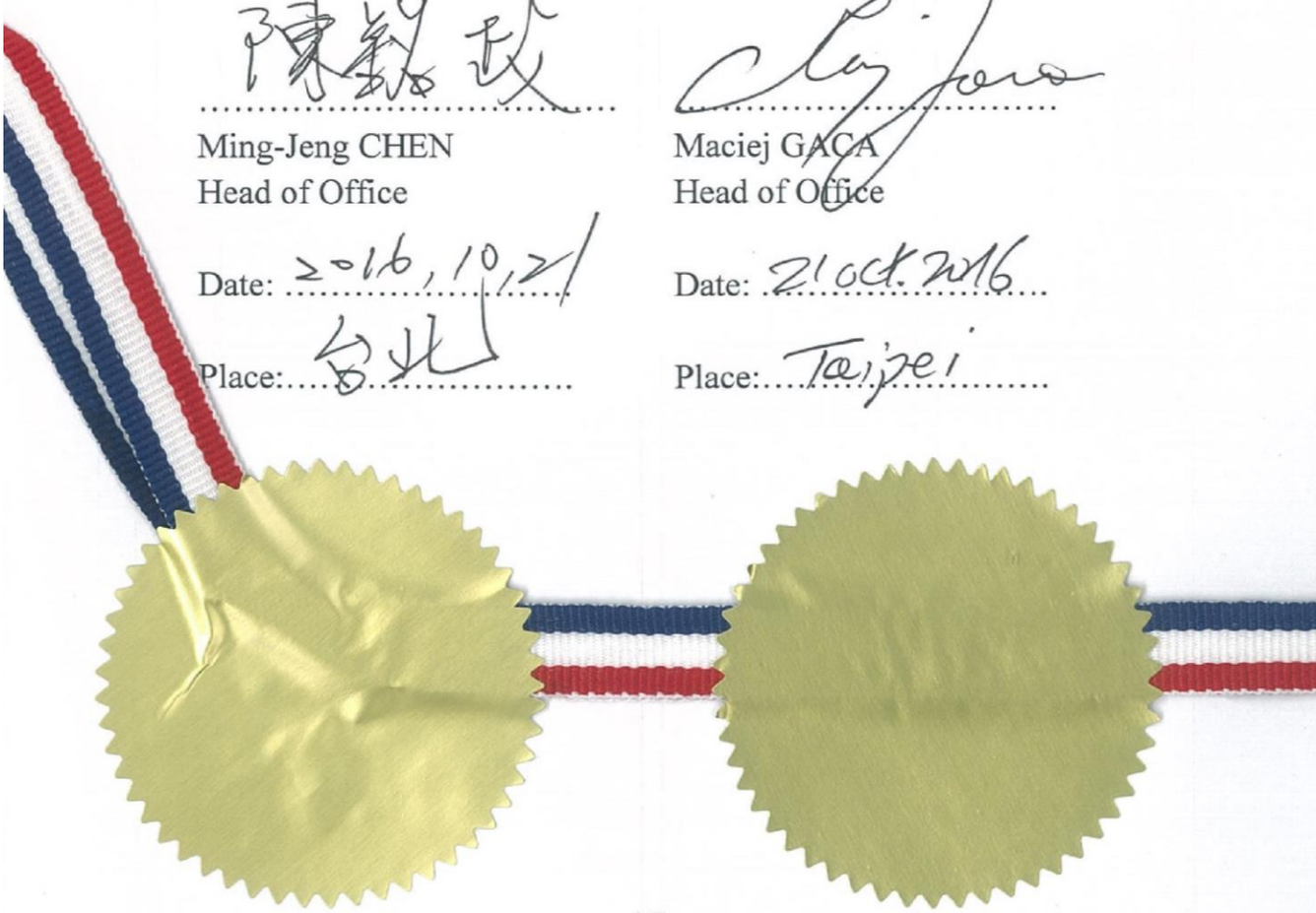
a) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given, and

b) in respect of other taxes, on income derived in any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

In witness whereof the undersigned, being duly authorized thereto have signed this Agreement.

Done in duplicate, in the English language.

For the Taipei Economic and Cultural Office in Warsaw	For the Warsaw Trade Office in Taipei
陳銘政	
Ming-Jeng CHEN	Maciej GACA
Head of Office	Head of Office
Date: 2016.10.21	Date: 21 Oct. 2016
Place: 台北	Place: Taipei



PROTOCOL

TO THE AGREEMENT BETWEEN

THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN WARSAW

AND THE WARSAW TRADE OFFICE IN TAIPEI

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

On the signing of the Agreement between the Taipei Economic and Cultural Office in Warsaw and the Warsaw Trade Office in Taipei for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "Agreement") the signatories have in addition agreed that the following provisions shall form an integral part of the Agreement:

1. With reference to Article 2:
With respect to paragraph 3 a) of Article 2 of the Agreement it is understood that the term "personal income tax" includes the lump sum tax on certain revenues derived by natural persons and the term "corporate income tax" includes the tonnage tax.

2. With reference to Article 4:

With respect to paragraph 2 of Article 4 of the Agreement it is understood that resident individuals of the territory referred to in paragraph 3 b) of Article 2 are liable to tax only in respect of income from sources in that territory in accordance with the Income Tax Act provided that such residents need not include their overseas income in the basic income in accordance with the Income Basic Tax Act.

3. With reference to Article 26:

With respect to paragraph 1 of Article 26 of the Agreement it is understood that although it does not restrict the possible methods for exchanging information, it shall not commit a competent authority to exchange information on an automatic or spontaneous basis.

In witness whereof the undersigned, being duly authorized thereto have signed this Protocol.

Done in duplicate, in the English language.

For the Taipei Economic and Cultural Office in Warsaw	For the Warsaw Trade Office in Taipei
陳銘政	
Ming-Jeng CHEN	Maciej GACA
Head of Office	Head of Office
Date: 2016.10.21	Date: 21 Oct 2016
Place: 台北	Place: Taipei